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Attorneys for Defendants
NEWREZ, LLC D/B/A SHELLPOINT
MORTGAGE SERVICING AND JP MORGAN
MORTGAGE ACQUISITION CORPORATION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

DAVID AVILA and JOHN HAYNE,

Plaintiffs,

v.

NEWREZ, LLC D/B/A SHELLPOINT
MORTGAGE SERVICING, JP MORGAN
MORTGAGE ACQUISITION
CORPORATION, PEAK FORECLOSURE
SERVICES, INC., and DOES 1-10,

Defendants.

Case No. 2:24-cv-02264-TLN-CSK

**NOTICE OF MOTION AND MOTION TO
DISMISS PLAINTIFF'S COMPLAINT**

Date: November 19, 2025
Time: 10:00 a.m.
Location: Courtroom 25
501 I Street, 8th Floor
Sacramento, CA 95814
Judge: Hon. Chi Soo Kim

TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that on November 19, 2024 at 10:00 a.m., or as soon thereafter as the matter may be heard, before the Honorable Chi Soo Kim, in Courtroom 25 of the United States District Court – Eastern District of California located at 501 I Street, 8th Floor, Sacramento, California, 95814, Defendants NEWREZ, LLC D/B/A SHELLPOINT MORTGAGE SERVICING AND JP MORGAN MORTGAGE ACQUISITION CORPORATION (“Defendants”), will and hereby do move this Court for an order dismissing the Complaint filed by Plaintiffs DAVID AVILA and JOHN HAYNE (“Plaintiffs”), and each and every purported claim for relief set forth therein pursuant to Federal Rules of Civil Procedure, Rule 12(b)(6) and Rule 8

1 for failure to state a claim upon which relief can be granted. Plaintiffs fail to state a claim for
2 relief, as outlined in the accompanying Memorandum of Points and Authorities as to their for:
3 1) Violation of the Fair Debt Collection Practices Act; 2) Trespass; 3) Breach of Contract;
4 3) Fraud (two counts); 4) Breach of Fiduciary Duty; 5) Promissory Estoppel; 6) Quiet Title (two
5 counts); and 7) Violation of the UCL. However, as set forth below, each claim fails.

6 This Motion is based on this Notice of Motion and Motion, the Memorandum of Points
7 and Authorities, the Request for Judicial Notice and Exhibits thereto, and the [Proposed] Order
8 filed and submitted concurrently herewith.

9
10 KLINEDINST PC

11
12 DATED: October 9, 2024

13 By: /s/ Jonathan C. Cahill

14 Ian A. Rambarran

15 Jonathan C. Cahill

16 Attorneys for Defendants

17 NEWREZ, LLC D/B/A SHELLPOINT

18 MORTGAGE SERVICING AND JP MORGAN

19 MORTGAGE ACQUISITION CORPORATION

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